

# THE GENERAL SESSION A CONTROVERSY OF 1720

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It seems that after the re-establishment of Presbyterian Church government in Scotland in 1690 some codification of Law was desired and something like a new Book of Discipline, to clarify the ways of proceeding in the Judicatories of the Church.

The General Assembly of 1697, which passed the Barrier Act, received a report, from the appropriate Committee, anent some Overtures drawn up by private hands in 1696 "*Concerning the Discipline and methods of proceeding in Ecclesiastical Judicatories in the Church of Scotland.*" The General Assembly sent them to Presbyteries asking for comments to be returned to the Assembly Commission before 1st August, and appointing the Commission to prepare the Overtures for the next Assembly. The Presbytery Commissioners were to take copies of the Overtures from George Mossman, the Assembly's printer.

The Assembly of 1698 had reports on the matter from the Commission and its Overtures Committee, and appointed a special Committee to consider the whole question, the members to be Mr. Gilbert Rule the Principal of the College in Edinburgh, Mr. William Dunlop the Principal of the College in Glasgow, six Ministers, Her Majesty's Advocate, the Lord Justice Clerk, and a Senator of the College of Justice, Elders. They were to compare them with the Word of God, Books of Discipline, and Acts of General Assemblies, and set out a new edition of the Overtures on which the Presbyteries might comment.

In 1703, the Assembly's Overtures Committee reported that the Committee appointed in 1698 (and those appointed in 1699, 1700 and 1701) had received remarks from some Presbyteries, had deleted some superfluous Overtures, amended others and added new matter, and had done good work. But another Committee should be appointed "yet to revise" those already printed and to revise new chapters on Synods and General Assemblies. Again the revision should go to the June Commission and then to the Presbyteries. This largely different Committee consisted of fourteen Ministers and Professors including the Moderator, and four

Elders including the Lord President of the Session, Her Majesty's Advocate and a Senator of the College of Justice.

In 1704 the General Assembly instructed Presbyteries to send in to next General Assembly opinions in writing on the Overtures concerning form of procedure of Judicatories of the Church against scandalous persons (Act XXIII), and in Act XXV, in view of failure to "bring the Overtures of Discipline to a period," appointed still another committee, including Carstares, to agree upon a *Form of Process* for the next General Assembly. The Overtures were to be revised again by the Commission for succinctness, sent to Presbyteries and brought to the next General Assembly.

*The Larger Overtures of 1705* were printed at length and are of great interest as indicating the mind of the Church on many matters of Church government and practice, but they were never approved as a whole.

The first chapter gives general directives on constituting Church Judicatories, on the duties of the Moderator and Clerk, on the method of proceeding and on closing meetings.

The second deals with the Work of Kirk Sessions.

The third is on proceedings and methods in Presbyteries-ordination and censuring of Ministers, visitation of parishes, Appeals and References of Kirk Sessions, Excommunication, etc.

The fourth is on Synods, and the last on General Assemblies.

In 1707 the General Assembly passed as an Act (XI) "*The Form of Process with relation to Scandals and Censures*" which provided for the immediate needs of discipline, and (Act XVII) recommended the Presbyteries to compare the Large Overtures with the Form of Process and to report from time to time their judgment as to what is yet wanting and necessary to be added to both these Overtures . . . "until this Church arrive at a complete system of rules in their proceedings in matters of discipline."

Act XVI of 1708 required Presbyteries to take the Overtures into consideration and send up opinions, and Act XIII of 1709 did the same, enjoining that opinions on certain sections be sent to the Commission before August. The Assembly recommended either diets "in hunc effectum" or the appointment of a Committee, and asked Presbyteries to send their most grave and experienced ministers to represent them at the next Assembly.

By 1710 some Presbyteries had sent replies but many had not and the Assembly rather pathetically tried to extract them.

The 1711 Assembly's principal act concerned "*Probationers and Questions to be put to Ministers at Ordination*," but we hear nothing more of the Overtures until 1718.

The Patronage Act of 1712, and division within the Church between presbyterians and episcopalians, the rebellion of 1715, the Simson case, and the Auchterarder case beginning in 1717 took the eyes of Ministers from a matter that could be left aside for calm consideration. However, in 1718 after being diverted by other incidental things, the Assembly again instructed (Act X) Presbyteries to transmit remarks to the Commission, which was to set up a Committee on the whole matter that the next Assembly might enter upon the necessary work.

Nothing new happened at the 1719 Assembly, but the Commission met on 11th November, 1719 and received a report from its Committee, amended the Overtures which had again been revised, and authorised their printing and being sent to Presbyteries. The Presbyteries were enjoined to consider them in *special diet timeously*.

The Committee had done much detailed work and now presented to the Commission Overtures concerning Kirk Sessions and Presbyteries only. They differed largely in form and indeed to some degree in content and emphasis from the Overtures of 1705. The Committee claimed that it had considered the remarks of Presbyteries and also the Books of Discipline, the "Propositions concerning Church government," and all relevant Acts of Assembly. They had put all in good order keeping where possible the very words used. The introduction to the Overtures states the purpose as "to clear up and confirm several parts of Church government," and refers back particularly to the "Second Book of Discipline," the Acts of Parliament of 1592 and 1690 and the "Propositions concerning Church Government" of 1645. With regard to Kirk Sessions, there are four main sections each with many sub-sections.

- I Of the Constitution of Kirk Sessions.
- II Of the Power and Duty of Kirk Sessions and of the several members thereof.
- III Of the Election and Ordination of Elders and Deacons
- IV Of Privy Censures in Kirk Sessions.

The subsequent controversy arose principally over sub-section ii of Section I (which declares that the Minister is ex-officio Moderator in Kirk Session), sub-sections vi, vii and viii of Section I; and sub-section viii of Section II. Sub-section vi of Section I begins "Tho' the General Assembly allows the continuance of those particular Sessions, which



for greater Dispatch of Business have been erected in some cities; yet taking into their serious consideration that the several parishes in a town or city are One Society, the Church Officers whereof may conveniently meet together and which the General Assembly has always considered as a Collegiate Church (Act V Assembly 1699), and that they have many things of no small importance in common which necessarily require the Inspection and Authority of the whole Ministers and Eldership of the Burgh, such as regulating the Administration of the Sacraments, the exercise of discipline especially when delinquents live in several parishes . . . suppressing of vice . . . promoting of virtue . . . regulating of week-day sermons . . . erecting of Charity Schools . . . distribution of Charity."

The Overture goes on to show that all Ministers of a Burgh have a real relation to the whole Burgh because they help one another with preaching and visiting the sick, and because of the frequent flittings in the town area. In cities many live in one parish and attend ordinances of religion in another. But the main ground for a General Session is in the Second Book of Discipline "which authoriseth Sessions consisting of Ministers and Elders of several associate parishes *only*, according to the practice of the Christian Church in the Apostolic times which had Collegiate Churches constituted in cities." Collegiate Sessions continued in the towns, but afterwards when Presbyteries were established particular Sessions were erected in the country, and then later on in some of the greater cities particular Sessions were set up for greater dispatch of business though there Collegiate Elderships continued, and all other towns with more churches than one continued to have one Associate Session still.

The Overtures lay down that in all towns and cities there will be a Collegiate Session consisting of all the Ministers, Elders and Deacons of the several parishes, as well as Particular Sessions. Where there are Universities, Ministers who are Principals and Professors of Divinity are to be members of the Collegiate Session, because the students are under their immediate inspection.

If disagreement arise in the Session nothing ought to be concluded unless by the Minister and 'plurality' of elders "And in a Collegiate Session where there are two Ministers, one of them agreeing with a majority of Elders, or both with half of the Elders shall decide a cause; if more Ministers than two then a majority both of Ministers and Elders or an equal half of one agreeing with a majority of the other is necessary for a decisive sentence." In the ensuing controversy this came to be known as "*The Negative*."

The attack came in pamphlets written in letter form, very skilfully and racily and with rather delightful irony and satire, by the Rev. John Anderson, M.A., of Glasgow. He had been tutor to the great John, Duke of Argyll and Minister of Dumbarton, and was already an accomplished pamphleteer trained in the struggle with the episcopalians. He had written a book in 1714 "*A Defence of the Church Government, Faith, Worship and Spirit of the Presbyterians.*" In 1717 he was called to be one of the Ministers of Glasgow by the people but there was considerable debate and controversy about the matter and trouble in the General Assembly of 1718, which translated him by 86 votes to 72. It was not till 1720 that he was appointed Minister of the North-West Church (Ramshorn) which was opened in 1721. His appointment had been opposed by the other Ministers of the City and he was quite ready to go to Glasgow in face of their opposition "to thwart their designs."<sup>1</sup> He died of apoplexy in 1723. Probably the controversy over his call to Glasgow inspired his opposition to the Overtures. If so, the consequences of that event may well have had considerable influence on the subsequent development of Presbyterian government in its lower courts.

Anderson's "*First Letter*" (dated, Glasgow March 24th, 1720) refers to the much "noise created by the Overtures" and then attacks the Commission for delay in sending them to the Presbyteries. Only one copy had arrived on 2nd March. Elders were too busy with seed-time to come to discuss a matter that virtually concerned them. Unanimity on the Committee had been obtained by putting on men of the same way of thinking and learned men like his colleagues in Glasgow, Mr. James Clark of St. Mary's or Tron, who had written against the Overtures "*Just and Sober Remarks*" (1720), had been excluded. The claim to have built on the Principles and Acts, *etc.* is doubted, some scorn being poured on the "etcetera," and then there are comments on what he considers to be a dangerous change in Church Establishment. The Church was not founded on Acts of Parliament (cf. Introduction lines 13, 14, 15) but 1500 years earlier.

The "*Second Letter*" followed a week later. He remarks that the Overtures are too long—like Canon Law) and there is no justification for changes in Laws and Acts of the Church. He tilts against the proposal that the Minister should be ex-officio Moderator. The Westminster Directory merely says it is expedient he be so—Dr. George Buchanan, not a Minister, was Moderator of Assembly in 1567.

<sup>1</sup> Cf. "*Fasti.*"

Then he attacks the statement "The General Assembly *allows* the continuance of Particular Sessions . . ." What wrong have they done to be reduced from Divine institution to mere "allowance?"

Reference is then made to the remarks on the Second Book of Discipline "which authorised Sessions consisting of Ministers and Elders of several associate parishes *only*." Is there then no authority for Particular Congregational Sessions? Are they not of God? Have they not done good work? Is a Particular Kirk Session just like a committee for the quick dispatch of business? No. A Kirk Session is a "radical judicatory" like the General Assembly. A "Congregational Assembly" in the Westminster Directory means an Assembly for a "Company of Christians who meet ordinarily for public worship" and where the Word is preached and Sacraments administered, there should be discipline exercised. The word "only" is not in the Second Book of Discipline and the reference there to "not every Particular Church" having "their own Particular Eldership" was required because of the shortage of Ministers at the time.

The argument is continued in the "*Third Letter*" dated 5th April. The Kirk Session has *intrinsic* power by Christ, whether authorised by General Assembly or not. Associate Sessions exist in towns but Particular Sessions are not accountable to them. Glasgow General Session is really a general meeting of Particular Sessions, a neighbourly Christian Society for agreeing what may be necessary for decency and order. "The Model" of 27th April, 1649 erecting Particular Sessions, not Committees was approved by Presbytery, and the Common Session has only a Consultative not an Authoritative Voice.

The General Session has never inspected Registers, and it is the Presbytery which visits individual Ministers and Sessions. Particular Sessions also appoint Ruling Elders to Presbytery and Synod. Perhaps the Overtures suggest that the General Session *should have* Authoritative Power, but this is quite unnecessary. The reference in the Westminster Directory (13) "In greater cities like Jerusalem and Ephesus there were several Congregations but one Church" means one presbyterian government, not a General Session.

Anderson then refers to "*Answers to Mr. Anderson's Letters upon the Overtures*," a pamphlet just published, suggesting the author is Mr. Robert Stewart, whom he insinuates later to be the Committee of One who prepared the Overtures, and encloses in his letter pamphlet a reply addressed to "Mr. Epeus," c/o Mr. Robert Stewart or Mr. Wm. Dunlop, in the College of Edinburgh. Epeus was the inventor and builder of the Trojan Horse. But there is little in this to further the argument.



The "*Fourth Letter*" is dated from Glasgow, 12th April, and goes on to argue against the necessity of a Collegiate Session, dealing with the matters in turn which the Overtures view as being its concern; the time of Sacraments, matters of discipline, the suppression of vice, regulating the week-day sermons, arranging for schools and charities. The Collegiate Session should be a consultative body.

Anderson then prints - "*A Representation, signed by 67 Elders and Deacons of Glasgow, to the Presbytery about 'The Negative'.*" This apparently had just been prepared and he may have had a hand in preparing it. The "Representation" questions that a decision should require the agreement of the Minister and a "plurality" of Elders. How can Ruling Elders rule if the Minister is to have this privilege. The Deacons object that they have no decisive voice except in matters concerning the poor and now they will not even have a decisive voice in this matter if the Minister has a veto. Double honour for the Elder in the Word does not mean a Negative by double honour. In the Presbytery, Synod and General Assembly the Moderator has a simple vote and a casting vote; why should it be otherwise in the Kirk Session? There is no "Negative" in the Second Book of Discipline.

Objection is also taken to Principals and Professors of Divinity being members of the Collegiate Session. They, themselves, being Ministers could hinder business, especially in Glasgow where together they could veto the call of a Minister, in certain circumstances.

Other arguments follow, already made by Anderson. Apparently answer to this "Representation" had been given that "The Negative" didn't relate to the calling of Ministers, nor to Sessions electing a Ruling Elder for Presbytery and Synod, nor to the distribution of charity, but only to the exercise of discipline and government of the Flock. However, as Anderson remarks, "this is not said in the Overtures."

In the "*Fifth Letter*," dated 29th April, he reverts to this opinion "of the answerer to the 'Representation'" and points out that discipline and government comprehend all these three exceptions. A matter of the relationship of Elders to doctrine is then raised and he points out that Elders have a spiritual function,<sup>1</sup> and he suggests that the direction of the Overtures is towards prelacy. In support of this he quotes extensively from the "Large Declaration" of 1639. The letter ends by showing how in the State and Law there is no parallel to "The Negative," nor in the other courts of the Church.

<sup>1</sup> Second Book of Discipline, Ch. 6.

The "*Sixth Letter*" is dated 6th May, that is, just before the Assembly, and is concerned to answer quotations for "The Negative" offered by the Answerer of the Glasgow Elders' "Representation." The quotations are from the "Genevan Book of Discipline," the Second Book of Discipline," the "Propositions in Church Government." They are dealt with one by one, and again he argues in favour of the Elders having more power in government than the Overtures would allow. There is always the possibility of appeal to the Presbytery. "May not Ministers rule the Flock without being absolute over-rulers?" He acknowledges that the Glasgow General Session has acted authoritatively in the past but never on a Minister's "Negative."

These letters by Anderson from which have been extracted some of the arguments are skilfully put together and the points are pertinently made, although one has the impression that he is like a lawyer pleading a doubtful case. He always seems to have in mind the Elders who will vote in the Assembly, and his purpose is to have the Overtures thrown out rather than to reach a balanced judgment on the facts of past history, or on the best action to be taken at the time.

Several other pamphlets on the General Session were published but in them there are few arguments which Anderson does not use himself. One is by "A Gentleman in the Country"—"Queries upon the Overtures concerning Kirk Sessions and Presbyteries."

The reply to Anderson's letters was an anonymous pamphlet of 136 pages "*A Full Vindication of the Overtures transmitted to Presbyteries by the Commission November 1719 from the Objections published in several papers against them.*" This was done by Professor William Dunlop who is best known for his editing of the "*Collection of Confessions*" and the long preface to that work on the need for Confessions.

Dunlop was Professor of Divinity and Church History in the University of Edinburgh. He was a son of Principal Dunlop of Glasgow, and grandson of Mr. Alexander Dunlop, Minister of Paisley. His father's mother was one of three sisters one of whom was the mother of Carstares, and the other was successively the wife of Zachary Boyd and James Durham. His father had had a distinguished career being among other things Historiographer for Scotland. Professor Wm. Dunlop, the author of this "Vindication" died in October 1720 at the age of 28.

The "Vindication" is a masterly piece of work; calm, reasoned and very well documented, and he makes a very good case for the General Session. He expresses the feeling that the development of Particular



Sessions in cities was leading to Congregationalism and independency in Church government.

After mildly remonstrating against the attack on the Overtures in pamphlets and the suggestion that some cunning plot is being uncovered, he attacks Anderson's methods and defends the Committee and Commission. Let the Overtures be considered on their merits. Here is no great increase in Church Law; it is codification, like the work of Justinian. "*The Form and Process*" has proved useful. "*The Larger Overtures*" were prepared long ago; almost all Presbyteries have at length sent remarks and it is time to finish with the matter. This is no new contrivance. It is necessary because the manuscript Acts are not easily available. To the Overtures he notes four principal sets of objections—(1) Those brought against the authorising of the *General Sessions* in cities; (2) Such as arise from *Principals* and *Professors of Divinity* being declared members of such Sessions; (3) The objections against a Minister's being declared *Moderator of a Kirk Session ex-officio*; (4) Objections to "the Negative" when Ministers and Elders disagree. These objections are answered in turn and most space is given to the question of the *General Session*. First there is a clear historical account. At the time of the Reformation there were no Presbyteries nor Particular Sessions, but only General Assemblies, Synods and General Sessions in town and country. After Presbyteries were erected, Particular Kirk Sessions were set up too in the country, but General Sessions continued in the Burghs for a long while even if there were several Ministers and congregations. This is still true at the time of writing. Then Glasgow and Edinburgh had Particular Kirk Sessions set up but the General Session was retained for matters of public or common concern, and was still naturally superior to the Particular Sessions in matters of discipline. These General Sessions are suitable to the genius of presbyterianism and the arguments against them "much animated by the Spirit of Independency." He is surprised that many in Glasgow are so against them and regrets the bitter invective, scorn and ridicule that have been used.

*Objectors to the General Session* object on the grounds that they are:

- (1) *Unwarrantable and New.*
- (2) *Contrary to Secure Establishment.*
- (3) *Tyrannous.*

(1) How can they be *unwarrantable* and new when they belong to Apostolic times? We read of the "Church", not the "Churches," of Jerusalem, Antioch, Ephesus and Corinth, and government was by Ministers and Elders in General Session, not by a Presbytery with delegate

Elders from particular congregations. The reference in the Westminster Directory to the Apostolic Churches was inserted against Independent tendencies. Nor is there any foundation for the idea that the Apostolic Church government was merely temporary. No claim to divine right for Particular Sessions over against General Sessions is possible from Apostolic Church evidence.

The Church is *One Organic Body* (1 Cor. 12, Rom. 12 etc.) and unity is the foundation of Presbytery as opposed to Independency. Therefore a General Session is desirable if possible but if the Church is too widespread then there must be different courts.

He quotes from the "*Jus Divinum Regimini Ecclesiastici*" in favour of "greater and more General Assemblies" in face of the Independent threat. Then he goes on to justify the Overtures from the practice of the Church of Scotland.

Parliament has always considered congregations in Burghs as one society, e.g. in the Act of 1690 rescinding patronage. Also the Second Book of Discipline, in the passage the vagueness of which had perhaps given rise to the whole controversy, meant General Sessions to continue, for when it was prepared no Particular Sessions as they later developed had yet been formed. In Perth, Aberdeen, Dundee and Inverness there is still at the time of writing no Particular Session, and for a long while after Edinburgh was divided into parishes there was only one General Session for all.

In Edinburgh distinct congregations were arranged for Ministers in 1598, and four Particular Kirk Sessions were set up in 1626, but Calderwood and Spottiswoode always speak of the "Session of Edinburgh," —which did good work in King James VI's time. Dunlop quotes from the Minutes of the General Session in the period from 1643 and shows the kind of business dealt with—Poor and Charity matters, disciplinary action against Penny-bridals, the time of marriage, questions to do with beadles and schools, baptism and the Lord's Supper, etc.

In 1648 the General Session joined with the Town Council in appointing Commissioners to the General Assembly. After 1690 the General Session recovered its rights as an authoritative judicatory and in 1694 ordered an intimation to be made from pulpits about submitting to the Censure of the Church, and ordained lists of papists in the bounds to be prepared. There was also an Act of the General Session in 1709, setting forth rules and instructions and appointed to be given to every Elder and Deacon at his admission. Lastly, in Edinburgh *all calls* of Ministers to Edinburgh had been performed by the General Session.

In Glasgow, although there were five parishes and five or six Ministers, there was only one Session until April 1649 when Particular Sessions were set up. The General Session agreed on a so-called "Model," a rule of proceeding. The Particular Sessions should meet for discipline within their bounds but the General Session would continue and not be degraded to any "Independent" Consultative Meeting.

The General Session was to deal with the Election and Call of Minister or Ministers to every congregation within the town, to elect Elders and Deacons in all the particular congregations, and to see to equality in the treatment of the poor. The "Model" was approved by the Session after presentation by Mr. James Durham, by the Council, and then by the Presbytery.

A marginal note "Consultative vote only" is dismissed by Dunlop, surely correctly, as a later and rather absurd interpolation, when it is considered what the General Session does—they care for the poor of the town, elect and transport Elders from one Session to another, elect and call Ministers, censure the scandalous persons, enact privy censures twice a year in Particular Sessions. Mr. Anderson's call was the first not made by the General Session in Glasgow.

(2) The second general objection to General Sessions is that they are *contrary to secure establishment*. Particular Sessions exist by divine right.

Dunlop points out that nothing in the Overtures can affect the Particular Sessions existing in the country districts nor take from their dignity and authority in Edinburgh or Glasgow which are the only Burghs that have any. The General Session in the Overtures deals with matters of common concern, and in the case of discipline is only to give general direction about harmony and uniformity.

Divine right claims apply to the General Session as much as to Particular Sessions; the membership of one is the sum of members of the other. The Scriptures have no precise rule. He quotes from the "*Remarks on Mr. Anderson's Second Letter*" to explain the normal ecclesiastical use of the word "*allows*" to which objection had been taken. Then he meets the objection that the idea of the General Session is a new thing and that there are only four "radical judicatories." The New Testament does not say there are four only. The Church is only Society and there is a certain expediency in the arrangement of its courts. Is the Commission not a Judicatory in some sense? "It is owned by every body but Independents, that according to the essential Principles of Church Government if the condition of the Church allowed it," there may be "Oecumenical Councils . . . with authority to give directions to and determine in Appeals



or References from National Assemblies, and this surely makes another Judicature beside the Four." Also the Presbytery of Zetland is under no Synod and Campvere elects straight to the General Assembly. Lastly, Geneva had a General Session only.

Is the idea of a "Radical Judicatory" not an Independent rather than a Presbyterian idea?

(3) The third general objection to the General Session is on the grounds that it would be *tyrannical*. But all members of Particular Sessions sit on the General Session and there is no question of the tyranny of a greater Church Judicatory over a lesser provided there is no usurping of work. He goes on to show how in the call of a Minister to a Burgh all have an interest, and how until the Patronage Act the call was vested in the General Session. All the heritors of the Burgh have a part; why not all the Elders? If the Elders in Particular Sessions are few and the Town Councillors are many the Town Council would really be the Patrons. A Particular Session cannot grapple with the Town Council. He gives a good illustration to make his argument. In 1648 when Robert Douglas and George Gillespie were two of the Ministers of Edinburgh, the Town Council favoured Malignancy and tried to arrange the call of Ministers through Particular Sessions. A Supplication was sent to the General Assembly where call by individual Sessions is referred to as the "new and dangerous way." The General Session is a guardian against tyranny. Dunlop's argument is that, to think of the General Session as having only a consultative purpose is to take the way of Independency. "Quod tangit omnes, fieri debet ab omnibus."

Is it not perhaps a fact that there is much in the argument? Our congregations in towns and in sections of the cities exist side by side today without ever meeting through Kirk Sessions to deal with matters of common concern, although the membership is never confined to the parish area. How much easier would be the matters of Readjustment and Church extension if Elders were able to see more clearly the needs of a larger area! The Presbytery only in part meets the need.

Dunlop then goes on to consider the lesser matters of the membership of Principals and Professors of Divinity in the General Session, and the right to be Moderator ex-officio, and finally he turns to "*the Negative*." He agrees that this is the most difficult matter and the easiest proposal to attack, but he sets about correcting mistaken ideas. "The Negative" is to be used only in matters of discipline and government where the pastoral office is concerned. It is not to be used in the election of a Minister nor of an Elder for Presbytery and Synod, nor in cases of Charity for in these things the Elders are representatives of the people. In point

of fact the only place of "the Negative" is with regard to lesser scandals. The charge then of the right to "the Negative" forwarding Prelatic designs is absurd. Dealing with scandals is a disgusting business and it should be remembered that the Minister has to execute the sentence. The purpose of "the Negative" is to avoid angry scenes with dissent and complaint and to permit an easy reference of the matter to the Presbytery.

On the other hand, the Minister is not to be reduced to the level of every Elder of the Church in matters of discipline and for action his concurrence is necessary in the Kirk Session. In the Holy Scriptures Ministers are principal rulers in the Church. The Pastors are in some sense the successors of the Apostles and to them are committed Peter's Keys. The word "episcopos" is always permissible to a Minister and the Pastor's authority is not to be lessened by there being many Elders. Pastors and Elders should respect one another's mutual rights. The Bible does not determine the proportion of Elders to Ministers but equality of power should be preserved. He suggests that "Elders were appointed to secure the membership of the Church from the tyranny of usurping Ministers." He quotes from the "Altare Damascenum" and from Beza: But this applies in the other direction and an over-stretched notion of the Elder's power is dangerous not only to the office of the Minister but to the office of the eldership itself. He then turns to note three things in Church practice which he thinks support his case.

First, the Minister sits in Presbytery and Synod "in proprio persona," the Elder by delegation from the Kirk Session, and it is the Presbytery that does the chief things in the government of the Church.

Secondly, the Minister's presence is necessary for the constitution of the court and therefore the Minister has a negative—he can merely close the meeting and leave the Session!

And thirdly, the Kirk Session cannot censure a Minister. Dunlop fears the danger of "popular Prelacy" and Independency, and he ends with deep regret at the necessity for the whole controversy, and the spread of faction and schism.

A pamphlet on "The Negative"—"*The Negative Discussed in Two Parts*" (84pp.), was written by Mr. William Wright, Minister at Kilmarnock. The first part seems to have been written prior to the Assembly, and the second, sometime afterwards, in reply to Dunlop's "*Full Vindication*." He says he had delayed the publication of his tract until things had quietened down. He begins with a long section in which he attempts

to judge fairly from Bible evidence, but then he goes on to attack "the Negative" very strongly.

The second part is rather wearisome reading and made up of close argument. But his principal point is that "the Negative" would tend towards the situation where the Ministry and the Eldership are too clearly separated, and the Ministers have a veto "very like the Prelatic veto" of Bishops in the Church of England.

When the Assembly met in the middle of May 1720 further Overtures were presented "concerning planting of vacant churches especially *Tanquam Jure Devoluto*. With regard to the Overtures on Kirk Sessions and Presbyteries, it was noted that many Presbyteries had not had time maturely to consider them and they were continued to the next Assembly but, to clarify difficulties that had arisen, several amendments and explanations were made. The words with regard to Particular Sessions "which are hereby allowed to continue" are to be deleted; and the section with regard to "the Negative" is also to be deleted. It is then stated in the Report that the Ministers are always to study harmony and unanimity, but if any question fall out in a Session, in matters of discipline to be executed by the Minister, nothing should be concluded unless it be agreed to by the Minister and plurality of Elders until the Presbytery give their advice and direction thereupon; and in a Collegiate Session where there are two Ministers, one of them agreeing with the majority of Elders or both with half the Elders shall decide a cause . . ." The Report goes on: "The General Assembly considering that it is but in some few Burghs where General Sessions are and that the Presbyteries in whose bounds these Burghs lie have most access to know the constitution and practice of the General Sessions, the General Assembly do therefore recommend to the respective Presbyteries in whose bounds these Burghs are to enquire into the constitution and practice of the said General Sessions and to report to the next General Assembly.

In January 1721 the Rev. John Warden wrote to Wodrow asking him to use his endeavours to suppress the Overtures "for they will kindle a fire that your children will not see quenched, and the flame is too high already." Wodrow replied in March. He had been on the Committee that prepared the Overtures. He had expected opposition to what related to the General Sessions but not with regard to "the Negative" and in his reply he defended it, pointing out the necessity for the balance of power between Ministers and Elders. According to Wodrow, Mr. Anderson wrote his Letters because he believed that the Overtures were levelled against him and his call to Glasgow—a thing which Wodrow entirely denies. In his Presbytery, Paisley, the majority of the Ministers approved



the Overtures but nearly all the Elders were against them. In a somewhat vague passage he indicates that he would be in favour of dividing all the Collegiate Charges throughout the kingdom into particular charges with particular sessions.

In a second letter to Warden of Gargunnoch, Wodrow returned to "the Negative" and argued fairly strongly for the wisdom of it. The Pastor by virtue of his office and Christ's Institution is the chief ruler to whom the power of ruling is in the first place committed, and to whom the "Elder is associate, assumed and joined" but not so as to have a negative or superiority, and the pastor, the chief ruler, made a cipher, a mere president. If Elders' powers are to be too much enlarged he fears they may wish to have influence on doctrine too, "government and discipline being a hedge of Christ to doctrine."

The Marrow controversy, becoming acute took the eyes of the Church from the Overtures and Act V of the General Assembly of 1721 is as follows:

"The General Assembly finding that the plurality of Presbyteries who have sent their remarks upon the Overtures concerning Kirk Sessions and Presbyteries, and concerning the planting of vacant churches *tanquam jure devoluto*, are not for passing them into Acts at this time, therefore this Assembly does unanimously agree and resolve not to pass the aforesaid Overtures into Acts, and further they declare and appoint that before the aforesaid Overtures be passed into Acts at any subsequent Assembly they shall be again transmitted by the General Assembly to the several Presbyteries in order to have their opinion thereupon."

In due course Particular Kirk Sessions were set up where General Sessions had been and the "General Session" was reduced in its powers and responsibilities until it became a matter of historical interest only, or left in several cases petrified relics of its existence.

Steuart of Pardovan has nothing helpful on the matter, but Mair<sup>1</sup> has an interesting paragraph. He states that he has been careful in consideration of the question because the legal position in two towns has been overlooked in important proceedings and he claims the support of Lord President Balfour in his estimate of the legal position. He says that because of increasing population in towns there were three expedients: (1) to make a church Collegiate, that is provide another benefice and Minister for the same church and parish; (2) to provide additional churches and benefices. Legally these two are similar for there is only one parish and one Kirk Session; (3) to give to additional churches all the rights

<sup>1</sup> "Digest of Church Laws." Wm. Mair, D.D. 3rd Edn. 1904, p. 144.

and privileges of a parish (including a Kirk Session) except in regard to funds and for matters to do with funds "all members of these Kirk Sessions meet as one." In his view the term "General Session" is only properly applied in this third case, and as higher courts have no cognisance of church funds the term "General Session" is unknown in Church Law. In the first two cases there is one Kirk Session only and it cannot confer jurisdiction on any other body or divest itself of its responsibilities. In the controversy under review the words General Session, Collegiate Session, Associate Session, seem to be used with the same meaning.

It is probable that the confusion on this whole matter was due to the difficult passages in the "*Second Book of Discipline*." The relevant passages from Chapter VII are as follows:

"Assemblies are of four sorts: For either they are of particular kirks and congregations one or more, or of a province, or of a whole nation, or of all and divers nations professing one Jesus Christ."

"When we speak of the elders of the particular congregations, we mean not that every particular parish kirk can, or may have their own particular elderships, especially in landward; but we think three, four, more, or fewer particular kirks, may have one eldership common to them all, to judge their ecclesiastical causes. Yet this is meet, that some of the elders be chosen out of every particular congregation, to concur with the rest of their brethren in common Assembly, and to take up the delation of offences within their own kirks, and bring them to the Assembly. This we gather out of the practice of the primitive kirk, where elders or colleges of seniors were constituted in cities and famous places."

It will be noted that the only court mentioned below the Synod is that for "particular kirks and congregations one or more." It would appear that in 1578 there were "general" kirk sessions in some of the Burghs, and kirk sessions in some of the landward areas, although these may not have been very clearly constituted. What the framers of the Second Book had in mind was the extension of the idea of the General Session to the country areas. In all probability a comparatively small number of Elders attended the General Session with regularity.

But two things happened in implementation of the idea: *firstly*, the most convenient arrangement for such extended "elderships" or "presbyteries" for the country as a whole was to take over the areas from which Ministers came for the "Exercise" and say that some non-preaching elders should be added. They had the precedent of the "Colloquay" in France where the situation to be faced was somewhat

similar. This meant in practice that the General Session remained for the Burgh, and a new court had to be formed for the greater area of the Exercise.

Thus the General Session and the Exercise both had their part as background to the Presbytery as we know it. In this connection it is interesting that the Scots Commissioners at the Westminster Assembly at the end of 1643 or beginning of 1644 drew up a paper in which they asserted "a congregational eldership for governing the private affairs of the congregation" but Calderwood, the historian, when he heard of this act wrote them a letter in which he sharply censured their conduct; "our books of Discipline" he said "admit of no presbytery or eldership but one and an acknowledgement of congregational eldership would be a great step towards Independency or Congregationalism as opposed to Presbyterianism." Henderson saw the point and there was trouble about it at Westminster.<sup>1</sup> The Act of Parliament of 1592 is at variance with this, but Calderwood's view would probably be that Acts of Parliament are rather irrelevant to the matter.

Secondly, perhaps following from this it was laid down by the General Assembly in 1582 that "during the Exercise of ecclesiastical discipline members of the presbytery who were not pastors or doctors were to be fewer in number than the number of pastors and doctors"<sup>2</sup> and it is almost certain that Elders did not attend the Presbytery as delegates from kirk sessions until the Glasgow Assembly of 1638. This may well have been because of a feeling even in 1582 that if the power of the ruling eldership as opposed to the preaching eldership became too great it would be dangerous for the Church. They were summoned in 1638 because they were needed to deal with a new situation and could be relied upon to carry forward the designs of the Covenant.

<sup>1</sup> "Old Church Life in Scotland," Edgar. p. 183.

<sup>2</sup> "Acts of Assembly," Vol. II. p. 567.



